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Attorneys for Debtors and Reorganized Debtors

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

In re:

PG&E CORPORATION,

- and -

**PACIFIC GAS AND ELECTRIC
COMPANY,**

Debtors.

- ☐ Affects PG&E Corporation
☒ Affects Pacific Gas and Electric Company
☐ Affects both Debtors

** All papers shall be filed in the Lead Case, No. 19-30088 (DM).*

Bankruptcy Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**REORGANIZED DEBTORS' OBJECTIONS
TO DECLARATIONS OF SCOTT BATES,
COURTNEY MCALISTER, JOHN MORENO,
AND MARK WEST IN SUPPORT OF THE
RESPONSE TO REORGANIZED DEBTORS'
OBJECTION TO PROOF OF CLAIM NO.
58562 [DOCKET NOS. 11479-1, 11479-2,
11479-3, AND 11479-4]**

[Relates to Docket Nos. 11288, 11479]

Date: November 9, 2021

Time: 10:00 a.m. (Pacific Time)

Place: (Tele/Videoconference Appearances Only)

United States Bankruptcy Court
Courtroom 17, 16th Floor
San Francisco, CA 94102

1 PG&E Corporation (“**PG&E Corp.**”) and Pacific Gas and Electric Company (the “**Utility**”), as
2 debtors and reorganized debtors (collectively, the “**Debtors**” or as reorganized pursuant to the Plan,¹
3 the “**Reorganized Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”),
4 submit the following objections to the declarations of Scott Bates (the “**Bates Declaration**”), Courtney
5 McAlister (the “**McAlister Declaration**”), John Moreno (the “**Moreno Declaration**”), and Mark West
6 (the “**West Declaration**”) [Docket Nos. 11479-1, 11479-2, 11479-3, and 11479-4] filed in support of
7 the *Response to Reorganized Debtors’ Objection to Proof of Claim No. 58562 Filed by Fulcrum Credit*
8 *Partners LLC as Transferee of Tuscan Ridge Associates, LLC* [Docket No. 11479].

9 **Objections to Bates Declaration [Docket No. 11479-1]**²

10 1. Objection is made to paragraph 3 and Exhibit A (“pictures taken from internet”) on the
11 grounds that there is no foundation to establish the authenticity, relevance, or declarant’s personal
12 knowledge regarding the “pictures taken from the internet.” *See* FRE 602.

13 2. Objection is made to paragraph 9 of the Bates Declaration on the ground that it is
14 argumentative, vague and ambiguous. *See* FRE 611; FRE 403.

15 3. Objection is made to the first sentence of paragraph 10 of the Bates Declaration on the
16 ground that the Declarant does not state that he “began to discuss terms for use of the Property with
17 PG&E” and may lack personal knowledge. *See* FRE 602. The statement is also argumentative, vague
18 and ambiguous. *See* FRE 611; FRE 403. Objection is made to the second sentence of paragraph 10 of
19 the Bates Declaration on the grounds that it lacks foundation and is vague and ambiguous. Objection
20 is made to the fourth sentence in paragraph 10 of the Bates Declaration on the grounds that it is
21 argumentative and directly contrary to the terms of the integrated Letter Agreement, which states that
22 TRA, not PG&E, “winterized” the property by transporting and dumping gravel and base rock at the

23 ¹ Capitalized terms used but not defined herein have the meanings ascribed to them in the *Reorganized*
24 *Debtors’ Objection to Proof of Claim No. 58562 Filed by Fulcrum Credit Partners LLC as Transferee*
of Tuscan Ridge Associates, LLC [Docket No. 11288].

25 ² The Declaration of Scott Bates in Support of Response to Reorganized Debtors’ Objection to Proof of
26 Claim no. 58562 [Docket No. 11479-1] contains essentially the same statements that are in the
27 Declaration and Supplemental Declaration of Scott Bates filed in Support of the Motion for Relief
28 from Plan Injunction to Compel Arbitration and/or for Abstention [Docket Nos. 11066-2 and 11305-3].
PG&E objects to the declarations of Scott Bates filed as Docket Nos. 11066-2 and 11305-3 on the
same grounds that PG&E objects to the declaration of Scott Bates filed as Docket No. 11479-1.

1 expense of PG&E—all with TRA’s express agreement. *See* FRE 611; FRE 403; Cal. Civ. Code
2 § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497
3 U.S. 261, 284 (1990). Objection is made to the fifth and sixth sentences in paragraph 10 and Exhibit B
4 on the grounds that they do not indicate personal knowledge and lack foundation. *See* FRE 602.

5 4. Objection is made to paragraph 11 of the Bates Declaration to the extent it purports to
6 interpret and characterize the provisions of the integrated Letter Agreement dated November 20, 2018.
7 *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri*
8 *Dept. of Health*, 497 U.S. 261, 284 (1990).

9 5. Objection is made to paragraph 12 of the Bates Declaration on the grounds that it
10 constitutes impermissible hearsay. *See* FRE 801(c). Further objection is made to paragraph 12 on the
11 ground that it lacks foundation and is inconsistent with other facts, including the Letter Agreement.
12 *See* FRE 104; Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of*
13 *Missouri Dept. of Health*, 497 U.S. 261, 284 (1990).

14 6. Objection is made to paragraph 13 of the Bates Declaration to the extent it purports to
15 interpret and characterize the provisions of the integrated Letter Agreement dated November 20, 2018.
16 *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri*
17 *Dept. of Health*, 497 U.S. 261, 284 (1990). Further objection is made to paragraph 13 of the Bates
18 Declaration on the grounds that it is vague, ambiguous, argumentative and lacks foundation. *See* FRE
19 611; FRE 403; FRE 104.

20 7. Objection is made to paragraph 14 of the Bates Declaration on the grounds that it is
21 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
22 is made to paragraph 14 of the Bates Declaration on the grounds that it constitutes impermissible
23 hearsay. *See* FRE 801(c). Further objection is made to paragraph 14 of the Bates Declaration on the
24 grounds that it is inadmissible compromise offers and negotiations. *See* FRE 408.

25 8. Objection is made to paragraph 15 of the Bates Declaration on the grounds that it is
26 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
27 is made to paragraph 15 of the Bates Declaration on the grounds that it constitutes impermissible
28 hearsay. *See* FRE 801(c). Further objection is made to paragraph 15 of the Bates Declaration on the

1 grounds that it is inadmissible compromise offers and negotiations. *See* FRE 408.

2 9. Objection is made to paragraph 16 of the Bates Declaration on the grounds that it is
3 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
4 is made to paragraph 16 of the Bates Declaration on the grounds that it constitutes impermissible
5 hearsay. *See* FRE 801(c). Further objection is made to paragraph 16 of the Bates Declaration on the
6 grounds that it is inadmissible compromise offers and negotiations. *See* FRE 408.

7 10. Objection is made to paragraph 17 of the Bates Declaration on the grounds that it is
8 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
9 is made to paragraph 17 of the Bates Declaration on the grounds that it constitutes impermissible
10 hearsay. *See* FRE 801(c). Further objection is made to paragraph 17 of the Bates Declaration on the
11 grounds that it is inadmissible compromise offers and negotiations. *See* FRE 408.

12 11. Objection is made to paragraph 18 of the Bates Declaration on the ground that it lacks
13 foundation regarding the ECC's entry onto the property. *See* FRE 611; FRE 403; FRE 104.

14 12. Objection is made to paragraph 19 of the Bates Declaration on the grounds that it is
15 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104.

16 13. Objection is made to paragraph 20 on the ground that it is vague, ambiguous,
17 argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104.

18 **Objections to McAlister Declaration [Docket No. 11479-2]³**

19 14. Objection is made to paragraph 3 of the McAlister Declaration on the ground that it
20 lacks foundation and to the extent that it is inconsistent with the September Agreement. *See* FRE 104;
21 Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept.*
22 *of Health*, 497 U.S. 261, 284 (1990).

23 15. Objection is made to paragraph 4 of the McAlister Declaration on the grounds that it

24 _____
25 ³ The Declaration of Courtney McAlister in Support of Response to Reorganized Debtors' Objection to
26 Proof of Claim no. 58562 [Docket No. 11479-2] contains statements and exhibits that are in the
27 Declaration of Courtney McAlister filed in support of the Motion for Relief from Plan Injunction to
28 Compel Arbitration and/or for Abstention [Docket No. 11305-1]. PG&E objects to the declaration of
Courtney McAlister filed as Docket No. 11305-1 on the same grounds that PG&E objects to the
declaration of Courtney McAlister filed as Docket No. 11479-2.

1 constitutes impermissible hearsay. *See* FRE 801(c).

2 16. Objection is made to paragraph 5 of the McAlister Declaration on the ground that it
3 lacks foundation and to the extent that it is inconsistent with the November 20, 2018 Letter Agreement.
4 *See* FRE 104; Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of*
5 *Missouri Dept. of Health*, 497 U.S. 261, 284 (1990).

6 17. Objection is made to paragraph 6 and Exhibit A of the McAlister Declaration on the
7 grounds of impermissible hearsay, lack of personal knowledge, and the statement is argumentative,
8 vague and ambiguous. *See* FRE 602; FRE 611; FRE 403; FRE 801. Objection is made to paragraph 6
9 and Exhibit A of the McAlister Declaration on the ground that it lacks foundation and to the extent that
10 it is inconsistent with the November 20, 2018 Letter Agreement. *See* FRE 104; Cal. Civ. Code § 1625;
11 Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261,
12 284 (1990).

13 18. Objection is made to paragraph 7 and Exhibit B of the McAlister Declaration to the
14 extent that it is inconsistent with the November 20, 2018 Letter Agreement. *See* FRE 104; Cal. Civ.
15 Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*,
16 497 U.S. 261, 284 (1990).

17 19. Objection is made to paragraph 8 and Exhibit C of the McAlister Declaration to the
18 extent that it is inconsistent with the November 20, 2018 Letter Agreement. *See* FRE 104; Cal. Civ.
19 Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*,
20 497 U.S. 261, 284 (1990).

21 20. Objection is made to paragraph 9 and Exhibit D of the McAlister Declaration to the
22 extent that it is inconsistent with the November 20, 2018 Letter Agreement. *See* FRE 104; Cal. Civ.
23 Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*,
24 497 U.S. 261, 284 (1990). Further objection is made to paragraph 9 of the McAlister Declaration on
25 the grounds that it is inadmissible compromise offers and negotiations. *See* FRE 408.

26 21. Objection is made to paragraph 10 of the McAlister Declaration to the extent that it is
27 inconsistent with the November 20, 2018 Letter Agreement. *See* FRE 104; Cal. Civ. Code § 1625;
28 Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261,

1 284 (1990). Further objection is made to paragraph 10 of the McAlister Declaration on the grounds
2 that it is inadmissible compromise offers and negotiations. *See* FRE 408.

3 22. Objection is made to paragraph 11 of the McAlister Declaration on the grounds that it is
4 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104.

5 23. Objection is made to paragraph 12 of the McAlister Declaration on the grounds that it is
6 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Further
7 objection is made to paragraph 12 of the McAlister Declaration on the grounds that it is inadmissible
8 compromise offers and negotiations. *See* FRE 408.

9 24. Objection is made to paragraph 13 of the McAlister Declaration on the grounds that it is
10 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
11 is made to paragraph 13 and Exhibit E of the McAlister Declaration on the grounds that it constitutes
12 impermissible hearsay. *See* FRE 801(c). Further objection is made to paragraph 13 and Exhibit E of
13 the McAlister Declaration on the grounds that it is inadmissible compromise offers and negotiations.
14 *See* FRE 408.

15 25. Objection is made to paragraph 14 of the McAlister Declaration on the grounds that it is
16 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
17 is made to paragraph 14 and Exhibit F of the McAlister Declaration on the grounds that it constitutes
18 impermissible hearsay. *See* FRE 801(c). Further objection is made to paragraph 14 and Exhibit F of
19 the McAlister Declaration on the grounds that it is inadmissible compromise offers and negotiations.
20 *See* FRE 408.

21 26. Objection is made to paragraph 15 of the McAlister Declaration on the grounds that it is
22 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection
23 is made to paragraph 15 and Exhibit G of the McAlister Declaration on the grounds that it constitutes
24 impermissible hearsay. *See* FRE 801(c). Further objection is made to paragraph 15 and Exhibit G of
25 the McAlister Declaration on the grounds that it is inadmissible compromise offers and negotiations.
26 *See* FRE 408.

27 27. Objection is made to paragraph 17 of the McAlister Declaration on the ground that it is
28 vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104.

28. Objection is made to paragraph 18 of the McAlister Declaration on the grounds that it is vague, ambiguous, argumentative and lacks foundation. *See* FRE 611; FRE 403; FRE 104. Objection is made to paragraph 18 and of the McAlister Declaration on the grounds that it constitutes impermissible hearsay. *See* FRE 801(c). Further objection is made to paragraph 18 of the McAlister Declaration on the grounds that it is inadmissible compromise offers and negotiations. *See* FRE 408.

Objections to Moreno Declaration [Docket No. 11479-3]⁴

29. Objection is made to paragraph 4 of the Moreno Declaration to the extent it purports to interpret and characterize the provisions of the integrated Letter Agreement dated November 20, 2018. *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261, 284 (1990). Further objection is made to paragraph 4 on the grounds the declarant has provided no foundation for his “understanding” or established personal knowledge of the baseline condition or PG&E’s use as alleged. *See* FRE 602. Objection is made to paragraph 4 of the Moreno Declaration on the grounds it is impermissible opinion testimony. *See* FRE 702-703.

30. Objection is made to paragraph 5 of the Moreno Declaration to the extent it purports to interpret and characterize the provisions of the integrated Letter Agreement dated November 20, 2018. *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261, 284 (1990). Objection is made to paragraph 5 of the Moreno Declaration on the grounds it is impermissible opinion testimony. *See* FRE 702-703.

31. Objection is made to paragraph 6 of the Moreno Declaration to the extent it purports to interpret and characterize the provisions of the integrated Letter Agreement dated November 20, 2018. *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261, 284 (1990). Objection is made to paragraph 6 on the grounds the declarant has provided no foundation for his “understanding” or established personal knowledge of the

⁴ The Declaration of John Moreno in Support of Response to Reorganized Debtors’ Objection to Proof of Claim no. 58562 [Docket No. 11479-3] contains statements and exhibits that are in the Declaration of John Moreno filed in support of the Motion for Relief from Plan Injunction to Compel Arbitration and/or for Abstention [Docket No. 11305-2]. PG&E objects to the declaration of John Moreno filed as Docket No. 11305-2 on the same grounds that PG&E objects to the declaration of John Moreno filed as Docket No. 11479-3.

1 baseline condition or PG&E's use as alleged. *See* FRE 602. Objection is made to paragraph 6 and
2 Exhibit A on the grounds that they are vague, ambiguous, argumentative, lacks foundation, and
3 inadmissible hearsay. *See* FRE 611; FRE 403; FRE 104; FRE 801(c). Objection is made to paragraph
4 6 and Exhibit A of the Moreno Declaration on the grounds it is impermissible opinion testimony. *See*
5 FRE 702-703.

6 32. Objection is made to paragraph 7 of the Moreno Declaration on the grounds that it is
7 vague, ambiguous, argumentative, lacks foundation, and inadmissible hearsay. *See* FRE 611; FRE
8 403; FRE 104; FRE 801(c). Objection is made to paragraph 7 of the Moreno Declaration on the
9 grounds it is impermissible opinion testimony. *See* FRE 702-703.

10 33. Objection is made to paragraph 8 and Exhibit B of the Moreno Declaration on the
11 grounds that they are vague, ambiguous, argumentative, lack foundation, and inadmissible hearsay.
12 *See* FRE 611; FRE 403; FRE 104; FRE 801(c). Objection is made to paragraph 8 and Exhibit B of the
13 Moreno Declaration on the grounds they are impermissible opinion testimony. *See* FRE 702-703.

14 34. Objection is made to paragraph 9 and Exhibit B of the Moreno Declaration on the
15 grounds that they are vague, ambiguous, argumentative, lack foundation, and inadmissible hearsay.
16 *See* FRE 611; FRE 403; FRE 104; FRE 801(c). Objection is made to paragraph 9 and Exhibit B of the
17 Moreno Declaration on the grounds it is impermissible opinion testimony. *See* FRE 702-703.

18 **Objections to West Declaration [Docket No. 11479-1]**

19 35. Objection is made to paragraph 3 of the West Declaration to the extent it purports to
20 interpret and characterize the provisions of the initial Letter Agreement that preceded the Letter
21 Agreement dated November 20, 2018. *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856;
22 *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261, 284 (1990).

23 36. Objection is made to paragraph 4 of the West Declaration on the ground that it is
24 argumentative, vague and ambiguous. *See* FRE 611; FRE 403. Objection is made to paragraph 4 of
25 the West Declaration that the grounds there is no foundation to establish personal knowledge. *See*
26 FRE 602. Objection further made to paragraph 4 of the West Declaration to the extent it purports to
27 interpret and characterize the provisions of the initial Letter Agreement or the Letter Agreement dated
28 November 20, 2018. *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856; *Cruzan by Cruzan v.*

1 *Director of Missouri Dept. of Health*, 497 U.S. 261, 284 (1990).

2 37. Objection is made to paragraph 5 of the West Declaration on the grounds of
3 impermissible hearsay, lack of personal knowledge, and the statement is argumentative, vague and
4 ambiguous. *See* FRE 602; FRE 611; FRE 403; FRE 801.

5 38. Objection is made to paragraph 6 of the West Declaration on the grounds of
6 impermissible hearsay, lack of personal knowledge, and the statement is argumentative, vague and
7 ambiguous. *See* FRE 602; FRE 611; FRE 403; FRE 801. Objection is further made to paragraph 6 of
8 the West Declaration to the extent it purports to interpret and characterize the provisions of the Letter
9 Agreement dated November 20, 2018. *See* Cal. Civ. Code § 1625; Cal. Code Civ. Proc. § 1856;
10 *Cruzan by Cruzan v. Director of Missouri Dept. of Health*, 497 U.S. 261, 284 (1990).

11 39. Objection is made to paragraph 7 of the West Declaration on the grounds of
12 impermissible hearsay, lack of personal knowledge, and the statement is argumentative, vague and
13 ambiguous. *See* FRE 602; FRE 611; FRE 403; FRE 801.

14 40. Objection is made to paragraph 8 of the West Declaration on the grounds of
15 impermissible hearsay, lack of personal knowledge, and the statement is argumentative, vague and
16 ambiguous. *See* FRE 602; FRE 611; FRE 403; FRE 801.

17 41. Objection is made to paragraph 9 of the West Declaration on the grounds of
18 impermissible hearsay, lack of personal knowledge, and the statement is argumentative, vague and
19 ambiguous. *See* FRE 602; FRE 611; FRE 403; FRE 801. Further objection is made to the paragraph 9
20 of the West Declaration on the grounds that it is inadmissible compromise offers and negotiations. *See*
21 FRE 408.

22 The Reorganized Debtors respectfully request that the Court sustain their Objections to the
23 declarations of Scott Bates, Courtney McAlister, John Moreno, and Mark West.

24 Dated: November 2, 2021

**KELLER BENVENUTTI KIM LLP
GOUGH & HANCOCK LLP**

26 By: /s/ Gayle L. Gough
27 Gayle L. Gough

28 *Attorneys for Debtors and Reorganized Debtors*